

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:14-CR-41-FL

UNITED STATES OF AMERICA)	
)	
v.)	ORDER OF DETENTION PENDING
)	TRIAL
DARRYL E. GALLOWAY,)	
)	
Defendant.)	

This case came before the court yesterday, 1 April 2014, for a hearing on the government's motion, pursuant to 18 U.S.C. § 3142(f), to detain defendant pending trial. The government presented the testimony of an agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives. Defendant presented the testimony of two proposed third-party custodians, his mother and sister. The court also reviewed the pretrial services report. After careful consideration pursuant to 18 U.S.C. § 3142(g) of the credible information and argument submitted, and based on the findings and reasons stated below and in open court, the court finds by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the safety of any other person and the community before trial if defendant is released. The government's motion is therefore GRANTED.

Background

Defendant was charged in a one-count indictment on 18 March 2014 with possession of an unregistered firearm (*i.e.*, a sawed-off shotgun) on 19 September 2012 in violation of 26 U.S.C. §§ 5861(d) and 5871. The evidence presented at the hearing showed that the charges arise from a search of defendant's residence in which the firearm, 115 grams of marijuana, a bulletproof vest, digital scales, and baggies were found. A woman present at the search stated

that defendant owned all the items found. Defendant himself admitted to ownership of the vest and gun. He stated that he bought it a short time before the search for protection.

Discussion

The law requires that defendant be detained pending trial based on the following principal findings and reasons: evidence showing that the government has a strong case, including the evidence reviewed above; the gun-related nature of the offense charged; the circumstances of the offense charged, including the concealability of the illicit firearm and the presence of drugs and a bullet-proof vest at the scene; defendant's criminal record, including 6 felony convictions, 13 misdemeanor convictions, 2 formal probation violations, and commission of a felony offense while on probation and of multiple offenses while on pretrial release; the recent escalation of defendant's criminal conduct from misdemeanor to felony offenses; the danger of continued offense conduct by defendant if released; defendant's marijuana habit; the unsuitability of the proposed third-party custodial arrangements due to, among other considerations, the extent of the risk of danger presented by defendant; and the other findings and reasons stated in open court.


The court considered evidence offered as mitigating, but finds that the factors favoring detention outweigh such evidence.

Conclusion

IT IS THEREFORE ORDERED that defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an

attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

This, the 2nd day of April 2014.



James E. Gates
United States Magistrate Judge